

### **REMARKS**

The Office Action mailed June 15, 2005 has been carefully reviewed and the amendments and arguments made herein have been made in a genuine effort to bring the claims into condition for allowance. Reconsideration of the claim rejections and allowance of all of the presently pending claims are, therefore, respectfully requested.

### **The Claims**

Claims 1-23 are pending.

Claim 1 has been amended to recite, *inter alia*, a method of making a decorative arrangement including the steps of providing a wet foam, partially curing said wet foam to create a nodule, shaping said nodule, securing a plurality of decorative elements to said nodule prior to said wet foam becoming rigid foam, and subsequently drying said nodule to convert it to ***decorative*** rigid foam.

Claims 24 and 25 are new and respectively recite Claims 5 and 8 rewritten in independent form in the manner that the Examiner has indicated would be allowable.

### **The Invention**

The present invention has provided a unique method for making a decorative arrangement by providing a wet foam, partially curing the wet foam to create a nodule as defined at Page 5, Line 22 of the Specification, which is formed into a desired shape, followed by securing a plurality of decorative elements as defined at Page 5, Line 29, of the Specification to the nodule prior to the wet foam (as defined on Page 6, Line 5 of the Specification) becoming rigid foam. The decorative element supporting nodule is then dried to convert it to rigid foam thereby creating the decorative arrangement. All of these features of the method are recited in amended independent Claim 1 and new independent Claims 24 and 25. Dependent Claims 2 through 23 depend directly or indirectly from amended Claim 1.

### **ALLOWABLE SUBJECT MATTER**

The Examiner indicates that Claims 5 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

New Claims 24 and 25 contain all of the limitations of Claims 5 and 8, and the base claims and any intervening claims from which they respectively depend. Accordingly, early allowance of Claims 24 and 25 is requested.

### **Claims 1-4, 6, 7, and 9-22: Rejected Under 35 U.S.C. 103(a)**

Claims 1-4, 6, 7 and 9-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laurenson (FR 2454752).

With regard to Claims 1, 2, 4, 6, 12-14 and 17, the Examiner states that Laurenson discloses “providing a thick layer of any known hardenable malleable material (page 2, line 8-10) supported on a rigid board of wood or plastic and securing a plurality of decorative elements to the material before it dries out and hardens.” The Examiner has acknowledged that Laurenson does not disclose the hardenable material being wet foam, but this inadequacy is said to be made up for by admitted prior art at pages 1-3, and 8 of Applicant’s specification. Applicant respectfully disagrees with this analysis.

Laurenson clearly teaches the requirement of a separate reinforcement for the “malleable setting material” which, as stated at page 1, line 38 through page 2, line 1 is contemplated as being clay, reduced cement or a special plastic material (see Appendix A, an English translation of the Laurenson reference, generated using the internet translator at the website <http://babelfish.altavista.com> and marked-up by Applicant’s attorney to provide line, paragraph and page references for the convenience of the Examiner). As such, and setting aside the issue of whether or not there is any teaching, suggestion or motivation in the prior art to make the combination suggested by the Examiner, even if the clay, cement or plastic of Laurenson was to be replaced with a foam material, as suggested by the Examiner, the combination would fail to teach or suggest Applicant’s invention.

More specifically, as shown in Laurenson Figures 1, 2, and 3, which depict a first embodiment, a plurality of nails 2 “in a number sufficient to constitute a reinforcement” for the malleable material 3, is required (Figures 1 and 2; page 2, lines 4-6). Additionally, a protective band or film 5 of flexible plastic must be rolled around the material to support it (Figure 3; page 2, lines 15-17). Applicant’s invention has no such requirement. Conversely, as recited in amended Claim 1 and supported in Applicants’ disclosure (see, for example, Figures 4, 8, and 9-15), in the method of the invention, the wet foam 30 is at least partially cured to create a nodule 66, 110, which is shaped and which is generally self-supporting. In other words, no nails or other separate supporting elements are required. For example, referring to Figure 15, the nodule 160 in accordance with the invention may at least partially overlie the top portion of a plastic bowl 162 while being capable of supporting decorative elements by itself, *per se*.

Further to the foregoing, the invention also distinguishes over the Laurenson reference and the prior art discussed in Applicant’s disclosure in that “[o]ne of the features of the present invention is to provide nodules which are sufficiently attractive as to be positioned within the decorative arrangement ***in a highly visible location***” (emphasis added)(paragraph 61 of Applicant’s specification; Figures 11, and 13-15). Laurenson on the other hand, like

numerous other prior systems, clearly employs the malleable material solely for purposes of retention of decorative elements and is intended to be essentially completely hidden from view by either a plastic wrap 5 (see, for example, Figures 1-3, and 6), a plastic grating structure or matrix 6 (Figures 4-6, and 10), containers (Figures 7-10), or a combination thereof.

Independent Claim 1 has been amended to further expressly recite the distinguishing decorative aspect of the foam of the invention. Specifically, Claim 1 has been amended to recite, *inter alia*, the nodule being made to be *decorative*.

Accordingly, the use of a malleable material which must be supported by one or more separate structures and which is intended to be essentially hidden from view, as taught by Laurensen does not teach or suggest, but in fact teaches away from the recited *decorative* foam nodule of amended Claim 1. Laurensen, therefore, adds nothing to the disclosed prior art to render the claimed invention obvious.

Accordingly, it is submitted that Claim 1, as amended, is patentable over the cited prior art.

Claims 2-22 depend from amended independent Claim 1 and through such dependency, are also patentable over the references. Claims 6,7, 9-11, 13-14, 16-17 and 22 are not separately asserted to be patentable apart from their dependency on Claim 1. Claims 2-5, 8, 12,15, 18 and 19-21 are further patentable over the references for the following reasons.

Regarding Claim 2, there is no teaching or suggestion in Laurensen or in the disclosed prior art, whether considered individually or in combination, to make the decorative arrangement by sequentially applying portions of at least some of the decorative elements to the nodule prior to complete drying of the nodule to convert it to rigid foam.

With regard to Claim 3, placing the wet foam on a film having a release surface is not taught or suggested by the references. In fact, Laurensen expressly teaches away from the recital of Claim 3 by requiring the foam to be placed within a container (Figures 7-9 and 10), wrapped in plastic (Figures 3 and 6) or to be otherwise supported by a separate support structure, such as nails 2 (Figures 1 and 2) or a plastic grid (Figure 4).

With respect to Claim 4, surface mounting of a decorative element as defined in Applicant's specification is not taught or suggested in the prior art references, which clearly contemplate stems of flowers penetrating the malleable material.

As to Claim 5, there is no teaching in the references to wet the foam *prior to* the partial curing of the nodule.

Regarding Claim 12, the references do not teach or suggest the wet foam, when partially cured, having the capability to secure the decorative elements in the arrangement. Such capability is achieved by the foam, *independently, without requiring a separate supporting structure* (e.g., nails, a container, or a wrap) as taught, for example, by Laurenson.

Claim 15 recites the preferred temperature and drying time for drying the wet foam of the invention. The references do not teach or suggest the recital of Claim 15 and it is, therefore, submitted that such recital would not have been obvious to one having ordinary skill in the art at the time of the invention was made.

With regard to Claim 18, there is nothing in the teaching of the prior art references, whether considered individually or in combination, that suggests employing additional ornaments, as defined in Applicant's specification at paragraph 48, when establishing the decorative arrangement.

With respect to Claim 19, the references do not teach or suggest the step of applying additional wet foam and additional decorative elements. In fact, by wrapping or otherwise enclosing the malleable material, Laurenson expressly teaches away from a subsequent foam application step. The same is true with respect to Claim 20, which is, therefore, further distinguishable over the references for similar reasons.

Regarding Claim 21, there is no teaching in the art of record to create depressed portions within the surface of the nodule as contemplated by the invention. In fact, the hidden nature of the malleable material of the Laurenson reference teaches away from creating such depressions for the purposes of *decoration*, as intended.

**Claim 23: Rejected Under 35 U.S.C. 103(a)**

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laurenson/AAPA as applied to Claim 1 above, and further in view of Harris (U.S. Patent 4,941,572).

With regard to Claim 23, the Examiner focuses on a combination of Laurenson and admitted prior art in view of Harris for the purpose of rendering obvious foam "having different colors." Applicant's Claim 23 recites *painting portions of the exterior of the nodule*. It is submitted, therefore, that the Harris reference, which at best teaches the foam itself having different colors (column 4, lines 60-63 disclosing that "the foam can be colored, for example green or brown"), not the *exterior of the foam being painted*, adds nothing to the other references to render Claim 23 obvious. None of the references teach or suggest the exterior of the foam being painted, as recited. In fact, Laurenson, which teaches the

malleable material being essentially hidden arguably teaches away from the concept of painting the exterior of the foam for decorative purposes, as contemplated.

Reconsideration and allowance of all of the claims, Claims 1-23, is requested.

### MISCELLANEOUS

The prior art made of record, but not relied on, has been reviewed, but is not believed to be more relevant than the applied art.

### SUMMARY AND CONCLUSIONS

It is respectfully submitted for the foregoing reasons that amended independent Claim 1 and all of the dependent claims, Claims 2-23, which depend directly or indirectly from Claim 1, are patentably distinct from the applied art, whether considered individually or in combination.

It is also submitted that new independent Claims 24 and 25, have been written in the manner indicated as being allowable by the Examiner and should, therefore, also be allowed.

Accordingly, it is submitted that the application is now in proper form for issuance of a Notice of Allowance. Such action is respectfully requested at an early date.

Respectfully submitted,



Grant E. Coffield  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44<sup>th</sup> Floor  
Pittsburgh, PA 15219  
Registration No. 52,758  
Attorney for Applicant

Telephone number:  
412.566.6965

# **APPENDIX A**